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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,642	10/27/2003	Hari Shankar	1509-462	8906

22879 7590 08/14/2007  
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FORT COLLINS, CO 80527-2400

EXAMINER
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HSU, ALPUS

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/693,642

Applicant(s)

SHANKAR, HARI

Examiner

Alpus H. Hsu

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 17-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 17-19 are directed to a memory storing a program for causing a network to operate in accordance with a method, which do not fall into any category of the statutory subject matter.

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 1 and 3, each term of "SCSI" and "MPLS" should be defined as to what it stands for at its first occurrence. Line 5, it is unclear as to what is meant by "assigning the data packet to a forward equivalent class". What is a "forward equivalent class" and what is the purpose of the assignment?

In claim 2, line 2, "mSCSI PDU" should be defined as to what it stands for, and "the mSCSI PDU" does not have proper antecedent basis.

In claim 3, lines 1, 3 and 4, each term of "SCSI", "MPLS" and "mSCSI" should be defined as to what it stands for at its first occurrence. Line 5, it is unclear as to what is meant by "assigning the mSCSI PDU to a forward equivalent class". What is a "forward equivalent class" and what is the purpose of the assignment?

In claims 6 and 10, line 2, it is unclear as to what each term of "CR-LDP" and "RSVP-TE" stands for. Same line, the phrase "or similar" renders the claim(s) indefinite because the

Art Unit: 2616

claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In claim 7, lines 1 and 4, each term of "iSCSI" and "MPLS" should be defined as to what it stands for at its first occurrence. Line 3, it is unclear as to what is meant by "assigning the iSCSI protocol data unit to a forward equivalent class". What is a "forward equivalent class" and what is the purpose of the assignment? Line 4, "the MPLS" protocol does not have proper antecedent basis.

In claim 8, lines 1 and 2, each term of "iSCSI" and "MPLS" should be defined as to what it stands for at its first occurrence. Line 5, it is unclear as to what is meant by "assigning the iSCSI protocol data unit to a forward equivalent class". What is a "forward equivalent class" and what is the purpose of the assignment?

In claims 11-13, it is vague and indefinite for reciting a "network: without any structural elements to perform the functions as in method claims 1, 7 and 8.

In claims 14-16, it is vague and indefinite for reciting "one or more host computers" without any programming and data processor for carrying out the methods as in claims 1, 7 and 8.

In claims 17-19, it is vague and indefinite for reciting "a memory storing a program for causing a network to be operated in accordance with a method" without any data processor for carrying out the method or structural elements for the network to perform the functions as in the method claims.

Art Unit: 2616

4. Due to the nature of 101 non-statutory subject matter and 112, 2<sup>nd</sup> paragraph issues regarding all claims, no prior art or allowable subject matter can be determined or applied at this time.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al., Guo et al., Amara et al., Hass, Alexander et al., Edsall et al., Basso et al., and Dutt et al. are all cited to show the common feature of packet network utilizing MPLS protocol and packet header encapsulation for data transportation similar to the claimed invention.

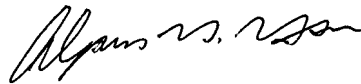
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2616

AHH

A handwritten signature in black ink, appearing to read "Alpus H. Hsu". The signature is fluid and cursive, with the first name "Alpus" being more prominent.

Alpus H. Hsu  
Primary Examiner  
Art Unit 2616